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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM MICHAEL LOWRY,

Defendant and Appellant.

B209072

(Los Angeles County
Super. Ct. No. ZM006211)

THE COURT:*

William Michael Lowry appeals from an order extending until August 1, 2009 his involuntary treatment as a mentally disordered offender (MDO) pursuant to Penal Code section 2970.¹

On February 14, 2008, the district attorney filed a petition under section 2970 (Petition) to extend for one year appellant's commitment as an MDO, previously made pursuant to section 2962 after appellant had been found guilty of the crime of carjacking (§§ 664, 215, subd. (a)). This petition was consolidated with a petition filed the previous year that had not yet been adjudicated.

* BOREN, P. J., DOI TODD, J., ASHMANN-GERST, J.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Before the hearing on the Petition, the trial court conducted a *Marsden*² hearing. The only reason articulated by appellant for requesting new counsel was that his attorney did not return his calls. Appellant's counsel said that she was prepared to proceed to trial and that everything necessary for trial had been obtained. The trial court found that there was no breakdown in the attorney client relationship warranting replacing appointed counsel, and denied the motion.

Dr. Joshua Horsley, appellant's psychiatrist working at Patton State Hospital, testified at the trial on the petition. He believed appellant's commitment should continue for another year. Appellant suffered from Schizoaffective disorder, bipolar type, a severe mental disorder under the MDO statute. Dr. Horsley was of the opinion that appellant was not in remission and could not be kept in remission because he continued to have bouts of paranoid delusions, believing that different hospital staff were "out to get him." Appellant's condition had deteriorated slightly since coming onto Dr. Horsley's unit, including a number of assault incidents. He was frequently verbally abusive with staff and other patients and exhibited a "threatening demeanor." Appellant tested positive for drugs a month before the hearing. At one time, appellant stated that he felt that group sessions were a waste of time and expressed uncertainty as to whether medication was necessary or of any benefit. Dr. Horsley believed that appellant presented a substantial risk of danger to the public because of his mental illness, continued use of drugs, and past violent criminal offenses and was not ready for placement in the community or in CONREP.

The trial court found beyond a reasonable doubt that appellant continued to have a severe mental disorder that was not in remission and, if in remission, could not stay in remission without treatment. By reason of his disorder, appellant represented a substantial danger of physical harm to others. The trial court therefore found the petition to be true.

² *People v. Marsden* (1970) 2 Cal.3d 118.

We appointed counsel to represent appellant on appeal. After examination of the record, counsel filed an “Opening Brief” in which no issues were raised. On September 8, 2008, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. Appellant has failed to file any further brief or response.

We have examined the entire record and are satisfied that appellant’s attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The order under review is affirmed.

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